IN THE HIGH COURT OF DELHI

Bail Application No.1339/2007

Deepak Kumar & Anr. ..... Petitioners
! through: Mr.Y.N.Singh Sengar.

VERSUS

$ State ..... Respondent
^ through : Mr.Jaideep Malik for State.
Mr.Darshan Paliwal for complainant.

% DATE OF DECISION: 01.10.2007

CORAM:

* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment? Y

2. To be referred to the Reporter or not? Y

3. Whether judgment should be reported in Digest? Y

: **PRADEEP NANDRAJOG, J.**

FIR No.497/07 dated 25.5.2007
under Section 498-A/406 IPC
PS Rohini.

1. Deepak Kumar, husband of the complainant Reena and Shobha Rani, mother-in-law of Reena seek pre-arrest bail.

2. As per the FIR Reena and Deepak were married on 26.1.2004 and that immediately after the marriage, the in-laws were not happy with the dowry articles gifted to Reena by her parents. There was a demand of Rs.40,000/- and a motor vehicle. That Reena's parents gave Rs.40,000/- but could not finance the car. That Reena was physically assaulted and confined to a room without food. That on 31.7.2005 Reena had to

leave her matrimonial home leaving behind everything with her in-laws. That her jewellery and other items were not being returned.

3. As per the petitioners, Reena left the matrimonial house due to temperamental differences and while so doing she took along with her all wearing apparels and her jewellery. It is further stated by the petitioners that the husband had sought restitution of conjugal rights by filing an application under Section 9 of the Hindu Marriage Act 1955.

4. It is stated by the petitioners that the learned Additional District Judge at Meerut before whom application under Section 9 of the Hindu Marriage Act 1955 filed by Deepak was listed had referred the parties for mediation and on 2.12.2006 Reena had appeared before the mediator. That mediation proceedings were being held when the FIR in question was got registered surreptitiously. Thus, it is urged that the intention of the complainant is no more other than to harass her in-laws.

5. It was further pointed out by learned counsel for the petitioners that the falsity of the allegations in the FIR can be felt on the face of the FIR which implicates the brother-in-law and sister-in-law of first petitioner who did not even reside in the same house.

6. I note that no issue has been born to the parties.

7. The rival versions of the parties would obviously

require evidence. The evidence would be the oral testimonies of the parties. For collecting this evidence, police does not have any role to play. Thus, no custodial interrogation would be required.

8. Pertaining to the dowry articles, it would be relevant to note that on 29.6.2007 various dowry articles which were left in her matrimonial house by the complainant when she withdrew from the consortium were handed over to the complainant as per memo dated 29.6.2007.

9. Only dispute pertains to the jewellery of the complainant. On 19.4.2007, petitioners admitted the jewellery which was the streedhan of the complainant but stated that the complainant had removed the same when she left the matrimonial house.

10. This issue would also require evidence.

11. At this stage learned counsel for the petitioners states that without prejudice to the rights of the petitioners, first petitioner is willing to pay to the complainant, by way of maintenance, Rs.3,000/- per month. This would be without prejudice to any orders which may be obtained by the complainant under any proceedings for maintenance. Further, counsel wants a clarification: that this amount would be adjusted from any amount which may become payable pursuant to any judicial order passed.

12. Under the circumstances I dispose of the petition

directing that on petitioners cooperating with the investigating officer and subject to petitioner No.1 paying to the complainant Rs.3,000/- per month by the 10th day of each calender month, payment being tendered by means of a cheque commencing from the current month of October 2007, in the event the petitioners are being arrested by the investigating officer, the petitioners would be released on bail by the investigating officer on their furnishing a personal bond in sum of Rs.10,000/- each with one surety each in the like amount to the satisfaction of the investigating officer in the afore-noted FIR.

13. Needless to state, Rs.3,000/- which would be paid by the first petitioner to the complainant pursuant to the present order would be adjusted and would be subject to any orders which may be obtained by the complainant from any Court pertaining to maintenance.

14. Dasti.

October 01, 2007 **PRADEEP NANDRAJOG, J.**
dk